

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed September 9, 2004 ("Office Action"). At the time of the Office Action, Claims 1-18 were pending in the application. Applicants respectfully request reconsideration and favorable action in this case.

Interview Summary

Applicants thank the Examiner for conducting the telephone interview on October 5, 2004, and for the thoughtful consideration of this case. During the telephone interview, Applicants and Examiner discussed the sufficiency of the 1.131 Declaration submitted on July 19, 2004, to swear behind U.S. Patent No. 6,591,324 issued to Chen et al. ("*Chen*"). It is Applicants' understanding that no agreement was reached regarding the sufficiency of the Declaration.

Information Disclosure Statements

Three Information Disclosure Statements (IDS) and accompanying PTO-1449 forms were submitted on March 22, 2004, April 15, 2004, and July 19, 2004, respectively. The Examiner has not provided an indication that the references submitted in the three IDSs were considered by the Examiner. For the Examiner's convenience, Applicants have enclosed copies of the previously submitted IDSs and PTO-1449 forms. Additionally, Applicants have included copies of the date-stamped postcards indicating the submission of the IDSs. Applicants respectfully request that the Examiner consider the cited references, if not already considered, and provide the appropriate indication that they have been considered by initialing next to the references on the PTO-1449 forms.

The *Chen* Reference

The Examiner rejects Claims 1-5, 10, 11, and 13-17 under 35 U.S.C. § 102(e), as being anticipated by U.S. Patent No. 6,591,324 issued to Chen et al. ("*Chen*"). For the following reasons, Applicants respectfully submit that the *Chen* reference is not prior art to Applicants' claims.

First, Applicants submit that the *Chen* reference is unavailable as prior art to Applicants' claims. On July 19, 2004 and in response to the Examiner's previous Office

Action, Applicants filed a first declaration ("First Declaration") under 37 C.F.R. § 1.131 concurrently with a Response to Office Action. Applicants submit that the exhibits attached to the First Declaration provided substantial evidence that (i) the subject matter of at least Claims 1, 9, 10, 13, and 16 were conceived prior to July 12, 2000 and (ii) the inventors worked diligently toward the construction of a prototype beginning prior to July 12, 2000. Specifically, the exhibits attached to the first Declaration support these contentions since the exhibits show that Applicants were in possession of the sixth prototype six days after the critical date. Subsequent to the submission of the First Declaration on July 19, 2004, however, Applicants acquired additional evidence that was unavailable to Applicants at the time that the First Declaration was filed. Accordingly, Applicants submit, concurrent with this response, an Affidavit under 37 C.F.R. § 1.131 from each inventor that establishes a date of invention prior to July 12, 2000 (Second Declarations). Therefore, Applicants respectfully contend that the *Chen* reference is no longer available to the Examiner to support a rejection of Claims 1-11 and 13-17.

For at least these reasons, Applicants respectfully submit that *Chen* is not prior art with regard to Applicants' claims.

Second, to the extent that the Examiner continues to maintain that *Chen* claims the same patentable invention as Applicants claim, Applicants submit that it is the duty of the Patent Office to declare an interference between *Chen* and Applicants' pending patent application. The M.P.E.P. provides that "if the reference is claiming the same invention as the application and its publication date is less than 1 year prior to the presentation of claims to that invention in the application, . . . [t]he reference can then be overcome only by way of an interference." M.P.E.P. § 715.05 Accordingly, should the Examiner continue to maintain that the *Chen* reference claims the same patentable invention as Applicants claim, the Examiner must declare an interference to determine priority between *Chen* and Applicants' pending patent application.

However, Applicants respectfully submit that an interference between *Chen* and Applicants' pending application is not appropriate since Applicants' claims are patentably distinct from *Chen*. The M.P.E.P. states that "[i]f the application (or patent under reexamination) and the domestic reference contain claims which are identical, or which are not patentably distinct, then the application and patent are claiming the 'same patentable invention.'" M.P.E.P. § 715.05. Accordingly, it follows that if the claims are patentably

distinct from one another, then the application and patent are not claiming the same patentable invention and an interference is inappropriate in this situation.

Applicants submit that Applicants' claims are patentably distinct from the claims of *Chen*. The independent claims of *Chen* are directed to hot swappable processor cards that are plugged into processor slots of a hot swap bus. (*See*, i.e., Claim 1). A first processor card includes a communications line for communicating with a second processor card that is plugged into the hot swap bus. (*See*, i.e., Claim 1). The second processor card controls signal switching circuitry to electrically disconnect the first processor card from the bus. (*See*, i.e., Claim 1). With respect to the claimed embodiment, the specification of the *Chen* reference provides that "the second processor card 120 may control the signal switching circuit 128 of the first processor card to disconnect the first processor card 120 from the bus 100 if the second processor card 120 determines that the first processor card 120 has malfunctioned." (Column 5, lines 4-8). Applicants' claims are patentably distinct, however, from the features of *Chen* described above. For example, Applicants' Claim 1 is directed to a midplane that includes a master signal control module "operable to communicate control signals to the second communication coupling if the first computing device is not coupled with the first communication coupling" and "[prevent] communication of the control signals to the second communication coupling if the first computing device is coupled with the first communication coupling." Accordingly, Applicants' claims are patentably distinct from the claims of *Chen* and an interference would be inappropriate in this situation.

CONCLUSION

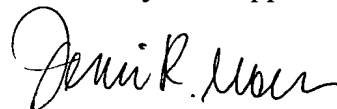
Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all pending Claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stand ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fees are due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge said fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



Jenni R. Moen
Reg. No. 52,038

Date: March 7, 2005

CORRESPONDENCE ADDRESS:

Customer No.: **05073**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: IRVING, et al.
Serial No. 09/848,816
Filing Date: May 4, 2001
Art Group Unit: 2181
Title: **SERVER CHASSIS HARDWARE MASTER SYSTEM
AND METHOD**

MAIL STOP AMENDMENT

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

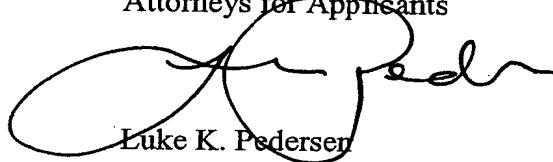
INFORMATION DISCLOSURE STATEMENT

Applicants respectfully request, pursuant to 37 C.F.R. §§ 1.56, 1.97 and 1.98, that the references listed on the attached PTO-1449 form be considered and cited in the examination of the above-identified patent application. Copies of these references are enclosed for the convenience of the Examiner. Furthermore, pursuant to 37 C.F.R. § 1.97(h), no representation is made that these references qualify as prior art or that these references are material to the patentability of the present application.

This Information Disclosure Statement is submitted after the first Office Action, but before the Final Office Action. Pursuant to 1.97(c) and 1.17(p), the stipulated fee of \$180.00 is enclosed herewith. The Commissioner is hereby authorized to charge any additional fee or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



Luke K. Pedersen
Reg. No. 45,003

Date: 7/19/04

CORRESPONDENCE ADDRESS:

Customer Number: **05073**
Attorney Docket No.: 067856.0213

PTO-1449 Information Disclosure Citation In an Application	Application No. 09/848,816	Applicant(s) IRVING, et al	
	Docket Number 067856.0213	Group Art Unit 2181	Filing Date May 4, 2001

U.S. PATENT DOCUMENTS

		DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
	A	5,666,485	09/09/1997	Suresh et al.	395	185.01	06/07/1995
	B						
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	D						
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FOREIGN PATENT DOCUMENTS

		DOCUMENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
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		DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
	T	Irving, et al., U.S. Patent Application No. 09/848,999 Entitled: "System and Method for Controlling Server Chassis Cooling Fans", filed May 4, 2001 (Attorney Docket No. 067856.0212)	
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	V		

EXAMINER

DATE CONSIDERED

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Total Pages		Total Pages	
<input type="checkbox"/> New Appln.; C.P.A.; Con.; CIP.; Div;		<input type="checkbox"/> Mo. Extension of Time	
<input type="checkbox"/> Provisional; Converted Provisional		<input type="checkbox"/> Notice of Appeal	
<input type="checkbox"/> (Specification, Claims, Abstract)		<input type="checkbox"/> Appeal Brief	
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<input type="checkbox"/> Verified Statement		<input checked="" type="checkbox"/> Serial No. <u>09/848,816</u>	
<input type="checkbox"/> Formal Drawing		<input checked="" type="checkbox"/> Other <u>IDS w/ PTO 1449 (3 pgs)</u>	
<input type="checkbox"/> Informal Drawings		<u>Copies of 2 references attached</u>	
<input type="checkbox"/> Amendment/Response			

Name of Inventor(s): IRVING, et al.

Title of Invention: SERVER CHASSIS HARDWARE MASTER SYSTEM AND METHOD

Client or Applicant: RLX Technologies

BB File No.: 067856.0213

Mailed: 4-15-04

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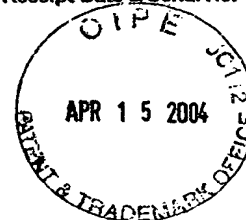
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: IRVING, et al.
Serial No. 09/848,816
Filing Date: May 4, 2001
Art Group Unit: 2181
Title: **SERVER CHASSIS HARDWARE MASTER SYSTEM
AND METHOD**

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Alexandria, VA 22313-1450

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Name:	<u>Quincy Chambers</u> Quincy Chambers
Date:	<u>4-15-04</u>

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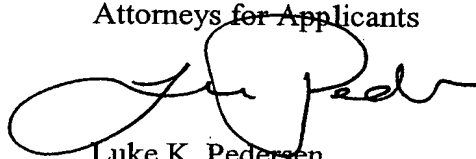
INFORMATION DISCLOSURE STATEMENT

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This Information Disclosure Statement is submitted after the first Office Action, but before the Final Office Action. Pursuant to 1.97(c) and 1.17(p), the stipulated fee of \$180.00 is enclosed herewith. The Commissioner is hereby authorized to charge any additional fee or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



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214-953-6655

Customer Number: **05073**
Attorney Docket No.: 067856.0213

PTO-1449

Page 1 of 1

**Information Disclosure Citation
In an Application**

Application No.

09/848,816

Applicant(s)

IRVING, et al

Docket Number

067856.0213

Group Art Unit

2181

Filing Date

May 4, 2001**U.S. PATENT DOCUMENTS**

		DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
	A	5,546,272	08/13/1996	Moss et al.	361	687	01/18/1995
	B	6,257,832	07/10/2001	Lyszkowski et al.	417	2	02/04/1999
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FOREIGN PATENT DOCUMENTS

		DOCUMENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
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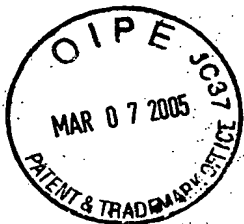
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<input type="checkbox"/> Informal Drawings		Copies of references (acco-bound)	
<input type="checkbox"/> Amendment/Response			

Name of Inventor(s): IRVING, et al.

Title of Invention: SERVER CHASSIS HARDWARE
MASTER SYSTEM AND METHOD

Client or Applicant: RLX Technologies

BB File No.: 067856.0213

Mailed: 3-22-04

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: IRVING, et al.
Serial No. 09/848,816
Filing Date: May 4, 2001
Art Group Unit: 2181
Title: **SERVER CHASSIS HARDWARE MASTER SYSTEM
AND METHOD**

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Name:	<u>Willie Jiles</u> Willie Jiles
Date:	<u>3-22-04</u>

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Attorney's Docket:
067856.0213

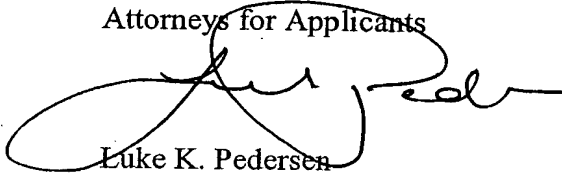
PATENT
09/848,816

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Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



Luke K. Pedersen
Reg. No. 45,003

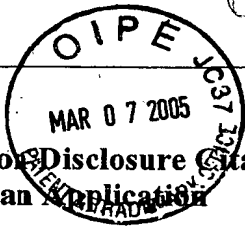
Date: 3/22/04

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2001 Ross Avenue, Suite 600
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214-953-6655

Customer Number: **05073**
Attorney Docket No.: 067856.0213

PTO-1449

Information Disclosure Statement
In an Application



Application No.

09/848,816

Applicant(s)

IRVING, et al

Docket Number

067856.0213

Group Art Unit

2181

Filing Date

May 4, 2001

U.S. PATENT DOCUMENTS

		DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
	A	4,500,821	02/19/1985	Bitting et al	318	254	06/09/1983
	B	4,817,865	04/04/1989	Wray	236	49.5	03/17/1988
	C	4,964,065	10/16/1990	Hicks et al.	364	514	09/19/01988
	D	5,513,361	04/30/1996	Young	395	750	07/25/1994
	E	5,687,079	11/11/1997	Bauer et al.	364	175	06/01/1995
	F	5,727,928	03/17/1998	Brown	417	44.11	12/14/1995
	G	5,731,954	03/24/1998	Cheon	361	699	08/22/1996
	H	5,805,403	09/08/1998	Chemla	361	103	03/28/1996
	I	5,848,282	12/08/1998	Kang	395	750.05	01/27/1997
	J	6,037,732	03/14/2000	Alfano et al.	318	471	04/21/1998
	K	6,065,081	05/16/2000	Stancil	710	104	04/29/1998
	L	6,101,459	08/08/2000	Tavallaei et al.	702	132	05/15/1997
	M	6,145,098	11/07/2000	Nouri et al.	714	31	10/01/1997
	N	6,147,465	11/14/2000	Hollenbeck	318	254	03/25/1999
	O	6,172,611	01/09/2001	Hussain et al	340	584	10/19/1998
	P	6,204,623	03/20/01	Levy, et al.	318	641	12/17/1998
	Q	6,298,376	10/02/2001	Rosner et al.	709	209	03/07/1997

FOREIGN PATENT DOCUMENTS

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		DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
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PTO-1449

MAR 07 2005

Information Disclosure Citation
In an Application

Application No.

09/848,816

Applicant(s)

IRVING, et al

Docket Number

067856.0213

Group Art Unit

2181

Filing Date

May 4, 2001

U.S. PATENT DOCUMENTS

		DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
	A	6,321,175	11/20/2001	Nagaraj	702	132	12/21/1998
	B	6,324,571	11/27/2001	Hacheri	709	208	09/21/1998
	C	6,392,372	05/21/2002	Mays, II	318	254	03/31/2000
	D	6,396,688	05/28/2002	Davies et al.	361	687	03/29/2000
	E	6,411,506	06/25/2002	Hipp et al.	361	686	07/20/2000
	F	6,459,589	10/01/2002	Manweiler et al.	361	752	03/26/2001
	G	6,470,289	10/22/2002	Peters et al.	702	132	08/05/1999
	H	2002/0020755	02/21/2002	Matsushita	236	49.3	06/14/2001
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FOREIGN PATENT DOCUMENTS

		DOCUMENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
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<input type="checkbox"/> Application - Spec., Claims, Abstract (___ Page(s))	<input checked="" type="checkbox"/> <u>1</u> Mo. Extension of Time (<u>1</u> Page)
<input type="checkbox"/> CIP <input type="checkbox"/> Conv. Prov. <input type="checkbox"/> Div.	<input checked="" type="checkbox"/> Amendment/Response Pursuant to 37 CFR §1.111 (<u>10</u> Pages)
<input type="checkbox"/> Cont. <input type="checkbox"/> Provisional	<input type="checkbox"/> Issue Fee Transmittal (___ Page(s))
<input type="checkbox"/> Informal/Formal Drawing(s) (___ Page(s))	<input checked="" type="checkbox"/> Check No. <u>121468</u> Amt.: \$ <u>55.00</u>
Declaration(s)/Power(s) of Attorney (___ Page(s))	<input checked="" type="checkbox"/> Check No. <u>121165</u> Amt.: \$ <u>180.00</u>
<input type="checkbox"/> Executed <input type="checkbox"/> Unexecuted	<input checked="" type="checkbox"/> Other: Declaration Pursuant to 37 CFR 1.131 (3 Pages)
<input type="checkbox"/> Assignment w/ or w/o Cover Sheet (___ Page(s))	<input checked="" type="checkbox"/> Other: Exhibit A - (20 pages)
<input checked="" type="checkbox"/> IDS and PTO-1449 (<u>3</u> Pages)	
<input checked="" type="checkbox"/> w/Refs. (acco-bound) <input type="checkbox"/> w/o Refs.	

Inventor(s): **Guy B. Irving et al.**

Serial No.: **09/848,816**

Receipt Date & Serial No.:

Title: **SERVER CHASSIS HARDWARE MASTER SYSTEM AND METHOD**

Client/Applicant: **RLX Technologies**

BB File No.: **067856.0213**

Mailed: **July 19, 2004**

Certificate of Mailing

Due: **June 26, 2004**

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